

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 189 of 1997

The Commissioner of Income Tax ... Applicant.

vs.

M/s. West Coast Paper Mills Ltd. Respondent

Mr. A. N. Kotangle for Applicant.

Mr. S. J. Mehta for Respondent

CORAM: V. C. DAGA AND A. S. AGUIAR JJ.

Date: 4th July, 2005.

P. C. :

1. By this reference under section 256(1) of the Income-tax Act the Tribunal has referred the following question of law for opinion at the instance of the Revenue:

(1) Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the dis-allowance under Rule 6-D has to be worked out taking into consideration the total trips undertaken by each person during the year and not by taking each individually?"

1. The above question has been covered by the decision of this court

in the case of **Commissioner of Income Tax vs. Aorow India Ltd.**, reported in [1998] 229 ITR 325 . This court while considering the above question, which centered around interpretation of Rule 6 D ruled as under:

“The above interpretation of ours get support from clause (b) of sub rule (2) of rule 6D as substituted in 1992. Under the substituted clause (b) also, the ceiling is on the expenditure incurred on travelling (other than the expenditure on travel) including hotel expenditure and allowances “per day”. If the expenditure does not exceed Rs.1,500/- per day, it is allowable in full. If it exceeds Rs.1,500 plus 50 per cent (75 per cent?) of such excess expenditure. This clearly goes to show that the allowance is to be calculated in the light of the actual expenditure incurred “per day”.”

2. In view of the above, the computation has to be made in accordance with rule 6D, as illustrated in the said judgment wherein the question referred to was answered against the assessee and in favour of the Revenue. For the reasons recorded in the said judgment by the Apex Court, the matter is remitted back to the Tribunal to recompute the amount allowable as a deduction under section 37(3) of the Act

read with rule 6D of the rules correctly in the lines indicated in the said judgment. This reference is disposed of accordingly with no order as to costs.

(V. C. DAGA J.)

(A. S. AGUIAR J.)

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